

**Iowa Department of Natural Resources
Natural Resource Commission**

ITEM

10

DECISION

TOPIC Notice of Intended Action –Chapter 30, Water Trails and Low-head Dam
Safety Program

The Commission is requested to approve the Notice of Intended Action, which proposes new requirements for a grant program, “Water Trails and Low-head Dam Safety Program.” The rules are authorized by Iowa Code sections 455A.2 and 455A.5, and partially funded by HF911.

The Department’s Water Trails program was developed to support linear, on-water trail projects on waterways throughout Iowa. This grant-making program will be available to local entities and non-profit organizations for development of low-impact access construction; signing of linear routes; development of portage trails; installation of dam warning signage at all Iowa dams; design and construction related to dam removal and modification; creation of promotional brochures and web sites; and other items that meet the goals of the Program.

As the Program has developed through staff working out in the field to provide instruction and information related to water trails development and dam safety, demand for the program become evident. The Department has determined that developing administrative rules to manage and distribute the funds it receives from the Iowa Legislature for these purposes is necessary to ensure the Program is effectively deployed as funds are available.

Ken Herring, Administrator
Conservation and Recreation Division

November 8, 2007

Attached: Notice of Intended Action

NATURAL RESOURCE COMMISSION [571]
Notice of Intended Action

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission gives Notice of Intended Action to amend Chapter 30, "Water Recreation Access Cost Share Program" of 571 Iowa Administrative Code.

The proposed amendments will supplement the current chapter with a Water Trails and Low-Head Dam Safety Program and rename the chapter, Waters Cost Share and Grant Program.

Any interested person may make written comments on this proposed new Chapter 30 on or before January 2, 2008. Such written materials should be directed to Nate Hoogeveen, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034.

A public hearing will be held on Wednesday, January 2, 2008, at 3:00 p.m. in the Fourth Floor Conference Room at the Wallace Building, 502 E. 9th Street, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend a public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of special needs.

These amendments are intended to implement Iowa Code chapters 455A and 461A. The following amendments are proposed:

ITEM 1. Amend the title of 571-chapter 30 as follows:

~~WATER RECREATION ACCESS COST SHARE PROGRAM~~ WATERS COST-SHARE AND GRANT PROGRAMS

ITEM 2. Amend 571- chapter 30 by adding the following heading before 571 – 30.1:

DIVISION I

ITEM 3. Amend rule 571 – 30.1 as follows:

571 – 30.1 (452A) Title and Purpose. This division shall provide rules for the water recreation access cost-share program. The purpose of this rule is to define procedures for cost sharing between state and local public agencies to provide for the acquisition or development of public recreational boating accesses to Iowa waters.

ITEM 4. Amend 571 – chapter 30 by adding after 571 – 30.14 the following:

571 – 30.15 to 30.49 Reserved.

ITEM 5. Amend 571 – chapter 30 by adding the following new division:

DIVISION II

571- 30.51 Definitions. For purposes of this division, these terms shall have the following definitions:

“*Advisory committee*” means the water trails advisory committee.

“*Commission*” means the natural resource commission.

“*Coordinator*” means the staff person of the department responsible to implement this chapter.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources.

“Low-head dam” means a uniform structure across a river or stream that causes an impoundment upstream, with a re-circulating current downstream.

“Navigable water” means all lakes, rivers, and streams, which can support a vessel capable of carrying one or more persons during a total of six months period in one out of every ten years.

“Scoring committee” means water trails scoring committee.

“Sponsor” means an eligible applicant, as described in these rules.

“Water trail” means a point-to-point travel system on a navigable water, and a recommended route connecting the points.

571- 30.52 Purpose and intent. The water trails development program and the low-head dam safety program provide funds to assist development of local water trails on navigable waters of the state of Iowa, and to support safety projects for low-head dams in the state of Iowa. The programs will be available to fund two types of projects, those that enhance water trails development and recreation, and those that are limited to enhancing only dam safety efforts.

571- 30.53 Announcement of funding opportunity. The coordinator shall announce, at least annually, the availability of funds for the programs, shall designate a time and place for receiving proposals, shall identify any additional requirements to those enumerated in this chapter for successful applications, and provide at least 90 days for sponsors to submit such proposals. The department shall provide for additional application cycles, but not more than quarterly, if additional funds are made or otherwise become available.

571 – 30.54 Grant Requirements. By submitting a proposal pursuant to this chapter, sponsors will agree to the following terms and conditions:

30.54(1) Maintenance and ownership. The sponsor will assume overall maintenance of integrity project or shall otherwise make agreements with landowners and other interested parties for such long-term maintenance as may be required.

30.54(2) Agreements. Before funds are disbursed, the sponsor will enter into a project agreement with the department, which shall detail and further define the relationship of the parties.

30.54(3) Resource impacts. The sponsor will install safeguards and otherwise ensure that the proposed project will have minimum or negligible impacts on natural resources.

30.54(4) Timely commencement of projects. Funds must be completely expended within two (2) years of the award. If the sponsor is not able to complete a project within the original time period, the sponsor must seek and receive an extension from the department to be eligible for funds beyond the original time period for completion.

30.54(5) Reports. Sponsors shall be responsible to file quarterly reports about the status of the project, including a description of funds expended and any issues encountered or problems that may delay or otherwise cause the project not to be completed. The sponsor shall submit a final report, which shall include the complete budget outlay for the completed project; samples of the completed project, if applicable; and a narrative of the project.

30.54(6) Expenditures. Sponsors shall expend all funds in accordance with their governance documents, which may include applicable provisions of the Code of Iowa.

30.54(7) Record keeping. Sponsors shall keep all project records for three (3) years after the final report is completed. These records are to be available for audit by the state.

30.54(8) Grant amendments. Any deviation from the project outlined in the application by the sponsor must be confirmed in advance via electronic mail or in writing by the coordinator.

30.54(9) Permits and licenses. Sponsors must obtain any and all required licenses and/or permits from federal, state, and local authorities before commencing any activity pursuant to a grant award.

30.54(10) Control of project site. Sponsors must demonstrate that the project site or sites are under the physical control of the Sponsor or its partners, either by fee title, lease, management agreement, or easement. The term of a lease, management agreement, or easement must be commensurate with the life expectancy of the proposed improvements.

571- 30.55 Application procedures. To be considered for funding, the sponsor shall submit proposals in the following manner:

30.55(1) Submit application on the forms provided by the department, postmarked by the date provided in the grant opportunity announcement.

30.55(2) State grounds for eligibility of funds pursuant to the program and must demonstrate the project is eligible for funding pursuant to the program.

30.55(3) Support any claim of cost share through a signed letter from the organization providing the cost share.

571- 30.56 Proposal evaluation. Proposals will be evaluated by the scoring committee, which shall consist of the coordinator, two other department staff members appointed by the director, and two representatives of the water recreation community selected by the director. The scoring committee shall evaluate both water trails development program proposals and low-head dam safety program proposals.

571 – 30.57 Program descriptions.

30.57(1) Water trails development program. The department will provide funds to cities, counties and non-profit entities in the state of Iowa to develop water trails eligible for designation throughout the state. The goal of the water trail development program is to assist and encourage community-driven water trails that provide features described herein and appropriate river management through design and spacing of accesses, while discouraging unnecessary impacts to natural resources through construction. Water trail develop program projects may become designated water trails, as determined by the department, and may be eligible for inclusion in the department's marketing materials.

30.57(2) Low-head dam safety program. The department will provide funds to cities and counties within Iowa to undertake projects that warn the general public about drowning hazards related to low-head dams or that remove or otherwise modify low-head dams to create a safer experience on Iowa's navigable waters.

571- 30.58 Sponsor eligibility.

30.58(1) Water trails development program is limited to local divisions of Iowa government or non-profit organizations recognized and incorporated pursuant to the laws of Iowa.

30.58(2) The low-head dam safety program is limited to cities and counties for structures and land owned or proposed to be owned by those cities or counties or other entities, including but not limited to cooperatives, state or federal agencies, and private individuals or corporations.

571-30.59 Project eligibility.

30.59(1) Water Trails Development Program. The committee will evaluate proposals for water trails development projects that achieve, or achieve progress related to, the goals of creating water trails that may ultimately be eligible for designation on navigable waters in the state of Iowa, including:

a. Accesses. Construction of low-impact water access points or other conveyances by which recreational users are provided a means of legally placing vessels in the water and removing them.

b. Land acquisition for water trail development. Purchases of easements or fee title lands that will be used for a water trail navigation, such as access, portage, camping, or other use related to navigation on a water trail.

c. Dam warning signage. Warning signs, supporting structures, and navigational aids such as buoys at and near low-head.

d. Navigation and interpretive signage. Various water trail signs and markers, as needed, to instruct recreational users about safe uses, regulations of access areas, surrounding area characteristics.

e. Portages. Construction of portage trails around dangerous water areas, such as dams, unnavigable waters, or any other section of water that is potentially dangerous or life threatening, or where a portage would aid navigation.

f. Construction and development. Items related to water trail navigation, including dam modification/removal, and amenities such as access roads or parking areas, canoe racks or bike racks for shuttling purposes, and restroom, picnic, and campsites easily accessible from waterways of primary use for water travelers. Contracted costs of developing any of the above water trails navigational amenities. Direct labor costs to the sponsor may count toward in-kind match according to prevailing local wages, up to \$10.50 per hour.

g. Promotion. Informational publications of water trails for public access and online materials available to the public.

h. Education. Education projects related to water safety and appropriate etiquette, with a primary focus on river or other water trails recreation.

i. Materials and equipment. Actual material cost of trail maintenance tools, gravel, fencing supplies, gates, bridges, culverts, riprap, and other materials necessary for trail, portage and/or access maintenance.

30.59(2) The committee will evaluate proposals for safety projects related to low-head dams, for activities on or adjacent to navigable waters in Iowa, using three categories:

a. Small projects. Small projects shall include proposal requests of up to \$20,000. Eligible projects for consideration for award as a small project shall include: warning signage and supporting infrastructure; feasibility, environmental, or preliminary design or engineering studies related to removal of hazardous structures; and construction costs related to portage trails and modification or removal of hazardous dams.

b. Medium projects. Medium projects shall include proposal requests of \$20,001 to \$50,000. Eligible projects for consideration of award as a medium project shall include: warning

signage and supporting infrastructure; and construction and engineering costs related to portage trails and modification or removal of hazardous dams.

c. Large projects. Large projects shall include proposal requests of over \$50,000. Eligible projects for consideration of award as a large project shall include construction and engineering costs related to modification or removal of hazardous dams.

571 – 30.60 Cost Share Requirements.

30.60(1) Grant proposals for water trails development projects do not require cost sharing; however, cost sharing is strongly encouraged through the selection criteria. Any claim of cost share shall be supported through a signed letter from the organization providing the cost share.

30.60(2) Grant proposals for low-head dam program projects shall provide at least fifty percent of the funds required to complete small, medium, and large projects. Cost sharing funds may include local, private, federal or other state funds. Any claim of cost share required by this sub-rule shall be supported through a signed letter from the organization providing the cost share. The department strongly encourages sponsors to provide more cost share than is required by these rules, and the committee will provide additional consideration to those proposals that exceed cost sharing requirements.

571 – 30.61 Evaluation Criteria.

30.61(1) The committee shall evaluate proposals for the water trails development program based on the following criteria: feasibility of the proposed project; level of private and/or local resources available to the project; and project's contribution to the achievement of having a designated water trail or designated wilderness water trail. The committee shall publish its ranking system, which shall be based on the criteria described above, with the application forms. The department shall post this ranking system on its website, www.iowadnr.gov, at least 30 days prior to proposal due dates.

For purposes of this rule, designated water trails shall include those bodies of water that include the following minimum treatment: provide signs to users about possible dangers and portages; possess adequate portage around obstructions and dams, or have modified obstructions and dams to make them safe to navigate, or the water trail begins or ends a safe distance up and down stream from the obstruction or dam; have access spaced and developed appropriately to the natural resource integrity of the water body from public roadways to the water trails; provide periodic kiosks with information for users; identify access to camping, lodging or other overnight accommodations; and have adequate promotion through maps, brochures and other media, which include information about the access points, difficult areas, distance between accesses, nearby cities, ADA amenity information, safety information, and other information related to use of the water trail. For purposes of this rule, designated wilderness water trails shall be a type of designated water trails that, because they are in areas of special scenic, ecological, geological, habitat or wildlife value, encourage only low-impact human uses, keeping signage and accesses to a minimum, while still providing critical information and access.

30.61(2) The committee shall consider the following criteria when evaluating grant proposals for low-head dam safety projects: improvements to public safety; demonstrated beneficial impacts to the overall stream health, fish migration and habitat, aesthetics, and recreational impacts; and contribution of private and/or local resources beyond minimal requirements provided by these rules.

571 – 30.62 Disbursement of awards.

30.62(1) Grants for water trails development projects will be announced not later than 90 days after the grants are due. The earliest disbursement date is July 1 of the following state fiscal year.

30.62(2) Grants for low-head dam safety projects will be announced not later than 90 days after the grants are due. All funds shall be obligated by not later than July 1 of the next fiscal year.

571- 30.63 Water Trails Advisory Committee. The advisory committee shall provide input to the water trails development program and the low-head dam safety program. The advisory committee shall be comprised of a minimum of six (6) members of the water recreation community – including canoe and kayak enthusiasts and/or club leaders, interested conservation associations, canoe and/or kayak livery owners – and the county conservation board community in Iowa, appointed by the director. Members of the advisory committee shall serve for two (2) years.

The advisory committee shall meet at least four times per calendar year, with such meetings being coordinated by the coordinator. The advisory committee will provide expertise to the scoring committee and assist the department in the development of any water trails or low-head dam safety master planning it may undertake.

These amendments are intended to implement Iowa Code chapters 455A and 461A.

571 – 30.64 to 30.99 Reserved.

Richard A. Leopold, Director

Date